

John R. Barhoum, OSB No. 045150

Email: john.barhoum@chockbarhoum.com

Jeffrey W. Hansen, OSB No. 923290

Email: jeff.hansen@chockbarhoum.com

Chock Barhoum LLP

121 SW Morrison St., Suite 500

Portland, OR 97204

Telephone: 503.223.3000

Attorneys for Defendants City of Saint Helens and
Adam Raethke

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

ROBERT BARROR,

Case No. 3:20-cv-00731-SB

Plaintiff,

v.

**CITY OF SAINT HELENS, and ADAM
RAETHKE, in his individual capacity,**

Defendant.

**DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S COMPLAINT**

DEMAND FOR JURY TRIAL

In Answer to Plaintiff's Complaint, Defendants City of St. Helens and Adam Rathke
hereby admit, deny and allege as follows:

1.

Defendants admit the allegations of paragraph 1 of Plaintiff's Complaint.

2.

In answer to paragraph 2 of Plaintiff's Complaint, Defendants admit only that on August

6, 2019, Plaintiff was travelling on Hwy. 30, presumably to his home in Columbia County, Oregon. Except as expressly admitted herein, Defendants deny each and every remaining allegation of paragraph 2 of Plaintiff's Complaint.

3.

Defendants deny the allegations of paragraph 3 of Plaintiff's Complaint.

4.

In answer to paragraphs 4 and 5 of Plaintiff's Complaint, Defendants admit only that after Trooper Killens and Trooper Cowen made a lawful traffic stop, they exited their vehicle and began to issue verbal orders to Plaintiff in order to effectuate his arrest, that Officer Rathke arrived on the scene and finding that the Oregon State Troopers had their weapons drawn, did the same, and that despite the orders issued by the Troopers, Plaintiff repeatedly refuse to comply and then continued to resist arrest as the officers asked for his compliance, requiring Ofc. Rathke to deliver a knee to Plaintiff's rib cage in order to subdue and handcuff the Plaintiff. Except as expressly admitted herein each and every remaining allegation of paragraphs 4 and 5 are denied.

5.

In answer to paragraph 6 of Plaintiff's Complaint, Defendants admit only that an ambulance and EMT(s) were called to the scene and examined and questioned Plaintiff before allowing the officers to complete the transport of Plaintiff to the Columbia County Jail for booking. Except as expressly admitted herein, each and every remaining allegation of paragraph 6 is denied.

6.

Defendants deny the allegations of paragraph 7 of Plaintiff's Complaint.

///

///

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Unlawful seizure (excessive force): 4th Am. To the US Const.; 42 USC 1983)

7.

In response to paragraph 8, Defendants incorporate their responses to paragraphs 1 through 7 above as though fully set forth herein.

8.

Defendants deny the allegations of paragraph 8(sic) of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

9.

Plaintiff's Complaint fails to state a claim as to one or both Defendants.

SECOND AFFIRMATIVE DEFENSE

(Qualified Immunity)

10.

Defendant Raethke is entitled to qualified immunity from liability under 42 U.S.C. § 1983 because he acted in good faith and a reasonable police officer in his position would not have known that any of their actions or inactions would have violated a clearly established, federally protected right of plaintiffs.

///

///

///

WHEREFORE, Defendants pray for judgment in their favor, for their costs, disbursements and attorney's fees incurred herein and for any other such relief as this court deems equitable just and proper.

Dated this 13th day of August, 2020.

CHOCK BARHOUM LLP



John R. Barhoum, OSB No. 045150

Email: john.barhoum@chockbarhoum.com

Jeffrey W. Hansen, OSB No. 923290

Email: jeff.hansen@chockbarhoum.com

Jordyn M. Parsons, OSB No. 174321

Email: jordyn.parsons@chockbarhoum.com

Chock Barhoum LLP

121 SW Morrison St., Suite 500

Portland, OR 97204

Telephone: 503.223.3000

Attorneys for Defendants City of Saint Helens and
Adam Raethke

John R. Barhoum, OSB No. 045150

Email: john.barhoum@chockbarhoum.com

Jeffrey W. Hansen, OSB No. 923290

Email: jeff.hansen@chockbarhoum.com

Chock Barhoum LLP

121 SW Morrison St., Suite 500

Portland, OR 97204

Telephone: 503.223.3000

Attorneys for Defendants City of Saint Helens and
Adam Raethke

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

ROBERT BARROR,

Case No. 3:20-cv-00731-SB

Plaintiff,

v.

CERTIFICATE OF SERVICE

**CITY OF SAINT HELENS, and ADAM
RAETHKE,** in his individual capacity,

Defendant.

I hereby certify that a true copy of the foregoing **DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT** was served on:

Justin Steffen, OSB No. 890923
Steffen Legal Services, LLC
205 SE Spokane St. #300
Portland OR 97202
Attorneys for Plaintiff

- ☐ By hand delivery
- ☐ By first-class mail*
- ☒ By electronic service through
ECF system as identified on the
Notice of Electronic Filing (NEF)
- ☐ By facsimile transmission
Fax #:
- ☒ By e-mail:
info@steffenlegal.com

*With first-class postage prepaid and deposited in Portland, Oregon.

Dated this 13th day of August, 2020.

CHOCK BARHOUM LLP



John R. Barhoum, OSB No. 045150

Email: john.barhoum@chockbarhoum.com

Jeffrey W. Hansen, OSB No. 923290

Email: jeff.hansen@chockbarhoum.com

Jordyn M. Parsons, OSB No. 174321

Email: jordyn.parsons@chockbarhoum.com

Chock Barhoum LLP

121 SW Morrison St., Suite 500

Portland, OR 97204

Telephone: 503.223.3000

Attorneys for Defendants City of Saint Helens and
Adam Raethke